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CFPB Issues Fall 2013 Regulatory Agenda

AUTHORS

Jonathan L. Pompan

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On December 3, 2013, the Consumer Financial Protection Bureau (“CFPB”) released its semi-annual update to its **rulemaking agenda**. The fall 2013 agenda covers rulemaking that the CFPB is continuing to work that are mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) and that the Bureau has turned its attention to issues in other major markets for consumer financial products and services. The regulatory agenda provides banks and nonbanks, and their service providers, a useful guide for understanding the CFPB’s rulemaking direction and related priorities.

Mortgage Rulemakings Continue

In 2013 the CFPB continued work on several significant rulemakings mandated by the Dodd-Frank Act, including rules and other significant reforms concerning mortgage originations, servicing, and most recently, the federal disclosures that consumers receive shortly after application and shortly before closing. In 2014, the rulemaking agenda indicates that the CFPB expects to begin work on follow-up mortgage issues, including: (a) how to apply certain exemptions under the Dodd-Frank Act that is designed to preserve credit in “rural or underserved” areas; (2) a proposed rule to implement Dodd-Frank Act changes to the Home Mortgage Disclosure Act.

Rulemakings in Progress and on the Horizon

The rulemaking agenda reflects that the CFPB is planning to move forward with rules or actively assessing the need for regulations in such markets as: **prepaid card products, debt collection, payday loans and deposit advance products, and bank overdraft programs**. The agenda also highlights that the CFPB has been “gathering significant information on these topics through previous white papers and other research, requests for comment and advanced notices of proposed rulemaking (including a current request for comment on debt collection practices), and other outreach.” According to the agenda, the CFPB “will intensify work on these projects in 2014, for instance by testing consumer disclosures in connection with prepaid products and debt collection.”

Supervision of Larger Participant Nonbanks

The CFPB continues to consider regulations that further establish the scope of the CFPB's nonbank supervision program by defining who is a larger participant in certain markets for consumer financial products or services, such as consumer installment loans, money transmitting, and debt relief services. The CFPB already has supervisory authority over other nonbanks such as mortgage originators and servicers, payday lenders, larger debt collectors, larger consumer reporting agencies, private student loan originators, and soon student loan servicers. Nonbanks that are not classified as “larger participants” may still be subject to the Bureau’s supervisory authority if the Bureau has reasonable cause to determine the company poses risk to consumers.

Initiatives to Streamline and Modernize Annual Privacy Notices

The agenda indicates that the CFPB expects to issue a proposal regarding annual privacy notices, which the Bureau notes “commenters had suggested that it would be helpful to reduce unwanted paperwork for consumers and unnecessary regulatory burdens, at least where a financial institution limits the sharing of information with third-parties and has not changed policies.”

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For more information, please contact **Jonathan L. Pompan** at 202.344.4383 or .

Jonathan L. Pompan, a partner in the Washington, DC office of Venable LLP, co-chairs the firm’s Consumer Financial Protection Bureau (“CFPB”) Task Force. His practice focuses on providing

comprehensive legal advice and regulatory advocacy to a broad spectrum of clients, such as nonbank financial products and services providers, advertisers and marketers, and trade and professional associations, before the CFPB, the Federal Trade Commission, state Attorneys General, and regulatory agencies.